

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Pacific Aerospace, Inc.  
354 McGlincey Lane  
Campbell, California 95008

EPA ID No: CAD 000 819 730

Respondent.

Docket No.: HWCA 20030386

ORDER TO CORRECT VIOLATIONS

Health and Safety Code  
Section 25187

INTRODUCTION

The California Department of Toxic Substances Control (Department), issues this Order to Correct Violations (Order) to Pacific Aerospace, Inc. (Respondent).

1.1. Site. Respondent generates, handles, treats, stores and/or disposes of hazardous waste at the following site: 354 McGlincey Lane, Campbell, Santa Clara County, California 95008 (Site).

1.2. Inspection. The Department inspected the Site on November 5, 2003.

1.3. Authorization Status. Respondent is a generator of the following hazardous wastes: Metal- and cyanide-bearing waste rinse water from electroplating operations, spent electroplating solutions containing dissolved metals, residues from plating solutions containing cyanides, and metal-bearing sludge from waste water treatment. Respondent is authorized by Santa Clara County Environmental Health, the Certified Unified Program Agency (CUPA), to treat metal-bearing waste water under Permit by Rule. Respondent is not authorized to treat cyanide-bearing waste.

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PACIFIC AEROSPACE, INC.

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1.4. Jurisdiction. Health and Safety Code (Health & Saf. Code) section 25187, authorizes the Department to order action necessary to correct violations when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

#### DETERMINATION OF VIOLATIONS

2. The Department has determined that, *inter alia*:

2.1. Respondent violated Health & Saf. Code, § 25201, in that Respondent treated extremely hazardous cyanide-bearing waste without authorization, and without having notified the Department or the local CUPA regarding the concentration of cyanide in the cyanide-bearing waste, before treatment.

2.2. Respondent violated Health & Saf., § 25200.14, in that Respondent made a false statement regarding the concentration of cyanide in cyanide-bearing waste treated by Respondent.

#### SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violations, IT IS HEREBY ORDERED THAT:

3.1. Effective immediately, Respondent shall cease on-site treatment of cyanide bearing wastes and shall not resume such treatment until and unless such treatment is conducted in full compliance with all applicable regulations and statutes, including without limitation the following:

(a) Respondent shall label all containers holding hazardous waste with information required pursuant to California Code of Regulations (Cal. Code Regs.), title 22, section 66262.34, paragraph (f).

(b) Respondent shall have submitted to the Department a waste analysis plan (WAP) for all hazardous waste treated onsite.

(c) All cyanide-bearing hazardous wastes generated and to be treated onsite shall be sampled for analysis at the point the waste is generated, and before the waste is commingled with any other waste and before any chemicals or heat are added to treat the waste. The Respondent shall obtain a detailed physical and chemical analysis from a State-certified laboratory for all cyanide-bearing wastes generated onsite. The analysis shall indicate the concentrations of any potentially hazardous substances in the waste, including any metals and cyanide, as well as the pH of the waste.

(d) All non-cyanide bearing wastes treated onsite are to be sampled and analyzed for hazardous characteristics. The WAP shall identify each waste stream, and identify how the waste stream is to be sampled, including the sample containers that are to be used to collect samples, and the WAP shall specify the waste analysis that is needed to determine the hazardous characteristics of each waste.

(e) Respondent shall have submitted to the Department a waste analysis from a State-certified hazardous waste analytical laboratory for all hazardous wastes treated onsite. All hazardous wastes treated onsite shall be sampled for this analysis at the point the waste is generated and before each waste is commingled with any other waste and before any chemicals or heat are added to treat the waste. The waste analysis

shall show the concentrations of all hazardous constituents (e.g., cyanide, metals, pH, etc.) in each waste before the waste is treated. Respondent shall also submit to the Department along with the waste analysis a statement indicating how much of each waste stream is generated and treated onsite, on average, in a calendar month.

(f) Respondent shall have submitted to the Department a completed Phase I Environmental Assessment.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Tony Pacheco, Deputy Director  
Santa Clara County Environmental Health  
1555 Berger Drive, Suite 300  
San Jose, California 95112-2716

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be

construed to relieve Respondent of the obligation to obtain such formal approvals as may otherwise be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Order) creates an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Sampling, Data and Document Availability.

3.9.1. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either: (a) comply with that request, (b) deliver the documents to the Department, or (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. The Department shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the Department be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may,

prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### OTHER PROVISIONS

4.1. Additional Enforcement Action. By issuance of this Order, the Department does not waive the right to take further enforcement actions or to impose penalties for the violations requiring immediate correction pursuant to this Order.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health & Saf. Code, § 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

4.5. Privileges. Nothing in this Order shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.



RIGHT TO A HEARING

5. Respondent may request a hearing to challenge this Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

6. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance: June 9, 2004

Department of Toxic Substances Control

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Original signed by

Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Statewide Compliance Division